TUEBOR

We Will Protect

Vol. 6, Issue 2 A Publication of the Michigan State Police Training Division Summer 2000

Stick to the Law: The Police Response to Special Interest Terrorism

Police seek and preserve public favor not by catering to public opinion but by constantly demonstrating absolute impartial service to the law.

— Sir Robert Peel's Fifth Principle for Modern Policing, 1829

It was almost prophetic, that on May 13, 1997, over two years before the Elian Gonzalez case, Louis J. Freeh, Director of the Federal Bureau of Investigation, warned the Senate Appropriations Committee Hearing on Counterterrorism, that one of the newest threats to law and order was "special interest terrorism." Not to be confused with special interest groups that are law-abiding and play a legitimate role in democratic government, a growing number of extremist or fringe special interest groups are engaging in criminal activity in order to bring about their narrowly focused social or political agendas. No matter how noble their ends, a special interest group becomes "terrorist" in nature when they use means that defy or undermine our democratic system of government.

It was on Thanksgiving Day 1999 that the 6-year-old Elian was found adrift in the Florida Straits after his mother and other Cuban refugees apparently drowned. Elian's Miami based great-uncle, Lazaro Gonzalez, was granted temporary custody, but subsequently refused to release Elian to the natural father, Juan Miguel Gonzalez of Cuba. "The boy isn't going anywhere," Jose Garcia-Pedrosa, one of Lazaro Gonzalez's attorneys, told the media.

Steve Yale-Loehr, a Cornell University professor in immigration law, told the media on January 12, 2000, that the law supports Attorney General Janet Reno's decision to unite Elian with his father, but "The problem has been that the INS has gotten a lot of *political heat* and I don't think they have the *political will* to try to force Elian back to Cuba at this point." This was, of course, exactly the intent of the special interest group holding Elian—to use political heat to undermine the law. In their blind-hatred for the dictator Fidel Castro, a small group of Cuban Americans could not see that if they succeeded, there was a grave risk of damaging the entire democratic decision-making system of the United States.

We live in a diverse, pluralistic society with many special interests—there is no doubt. The stability of any plural society is best insured by the rule of law, made within the framework of an explicit constitution by elected representatives, executed by a partially autonomous administrative staff, and adjudicated by an independent judiciary. If we fail to keep this rule of law, our pluralism, which is our greatest strength, will become unstable. Conflict among factions—racial, ethnic, religious, or special interest—could cause such turmoil in society that it will threaten the very authority of government, and society will become so deadlocked as not to function.

To prevent damage to our democracy, Attorney General Janet Reno advises law enforcement, in response to the Elian Gonzalez case, or anything politically controversial: "Stick to the law." This does not mean police should enforce the law to the letter without discretion—far from it. Police discretion is even more vitally needed in public disorders, if discretion means police can use their best judgment to help enforce the law (often using less power than their authority allows). What Reno is saying is that the state is obligated to actively protect the democratic decision-making process from encroachment by coercive special interests.

Since police must act against extremism to protect government legitimacy, they must be prepared for Catch-22 situations, since the special interest terrorists will try to position police so that no matter what they do, it can be portrayed in the media as the wrong response. For instance, extremists sensationalized a photograph of a Border Patrol agent in raid entry gear, reaching toward Elian during the rescue, in an attempt to discredit federal law enforcement as being unsympathetic and heavy handed.

While a "stick to the law" policy is the best law enforcement option, expect that there can still be a cost. For instance, acting with great discretion, restraint, and respect for the

(Continued on Page 2)

(Continued from Page 1)

law, City of Miami Police Chief William E. O'Brien, a 25-year veteran, took full responsibility for the decision not to inform city officials of the plan to rescue Elian by raiding the home of the Miami relatives. "They wanted to know again who gave the order and who was responsible, I want to say again, I gave the order and I am the one who is responsible," said O'Brien. The police chief explained that confrontations between demonstrators and police would have been much greater if word of the raid had been leaked.

Former police chief, and current city manager, Donald Warshaw backed O'Brien's leadership throughout the crisis, saying, "This is a man of compassion," and refused to fire O'Brien when ordered to by the mayor. With Warshaw under attack and fighting to keep his job, O'Brien decided to step-down, diverting the political chaos surrounding his beloved department. At the announcement of his retirement on April 28, according to the Florida *Sun-Sentinel*: "Scores of officers and department employees applauded and cheered O'Brien. Some cried." O'Brien and Warshaw represent those rare and invaluable police leaders who are willing to preserve our democratic system of law enforcement no matter what the personal cost. The Mayor's Office, on the other hand, is now being accused of trying to turn Miami into a "Banana Republic"—where politicians can arbitrarily control the law, as opposed to a fair and neutral legal system.

Soldier of Democracy: Chief William O'Brien

WARNING: Police Tactics Can Be Corrupted by Special Interest Pressures

It is well known that the New York City Police Department was one of the first law enforcement agencies to make a dent in the crime and social disruption that has pervaded the United States for so long. NYPD's method of community policing and swift enforcement has been a model for other departments. However, much of their hard work was overshadowed on February 4, 1999, when West African immigrant Amadou Diallo was killed—hit by 19 of 41 bullets fired by the plainclothes officers who approached him with their guns drawn late that night. As it turned out, Diallo was unarmed and was only responding nervously to the approaching police.

While the officers involved in the shooting were found not-guilty of criminal charges, political campaigners and Bruce Springsteen's recent songs *Code of Silence* and *American Skin* have reopened the issue, inciting anger and resentment from New York Police who are trying to restore morale and move ahead to other problems. Many accusations and defenses have been made as to why the shooting happened—the only agreement that can be found is that it was a tragedy.

It is ironic that just as the controversy is being renewed, a report has been released that takes a more detached look at the shooting's causes. Timothy Lynch, director of the CATO Institute's Project on Criminal Justice, released the results of his research on March 31, 2000. Lynch lends some support to the individual officers, stating "The killing of Amadou Diallo was not an act of racist violence." But when Lynch also states that "neither was it some fluke accident," he goes on to describe a more indiscriminate and pervasive cause.

Based on interviews with NYPD officers, Lynch concluded that special interest pressures corrupted police tactics when New York City policymakers made firearms-related arrests a special priority, emphasizing outputs over quality: "Although the crime rates had been declining, the productivity of the Street Crimes Unit was to be measured by the number of gun seizures," and they expected the newly expanded unit to "increase production," just as if they were working on an assembly line.

The CATO report found that the NYPD culture put such demand on aggressive policing that "stop-and-frisk tactics" were bound to grow reckless and confrontational—like an accident waiting to happen. Eventually, pressure and frustration encouraged police to violate standards of probable cause so they could satisfy demands. As a result, an "us versus them" mentality developed in these special one-dimensional teams which desensitized the officers to their own growing aggression and loss of perspective. This attitude was reflected by the increase in dismissed cases: "In 1998 prosecutors threw out 18,000 arrests—double the number thrown out in 1994." The lack of accountability for police conduct became the underlying problem in these special units, the report states:

"When a reporter asked a veteran police supervisor about the dismissal rates of his unit, his response was that a failed prosecution doesn't matter so long as a gun is taken off the street. With commanders harboring such attitudes, it is plainly obvious that the typical member of the gung-ho Street Crimes Unit has little incentive to pay much attention to the rights and dignity of city residents. One police officer told a reporter that all the complaints about racial profiling were misplaced. 'It's pure mathematics: the more people they toss, the more guns they come up with.' Another officer, speaking on the conditions of anonymity, said: 'There are guys who are willing to toss anyone who's walking with his hands in his pockets.'"

(Continued on Page 3)

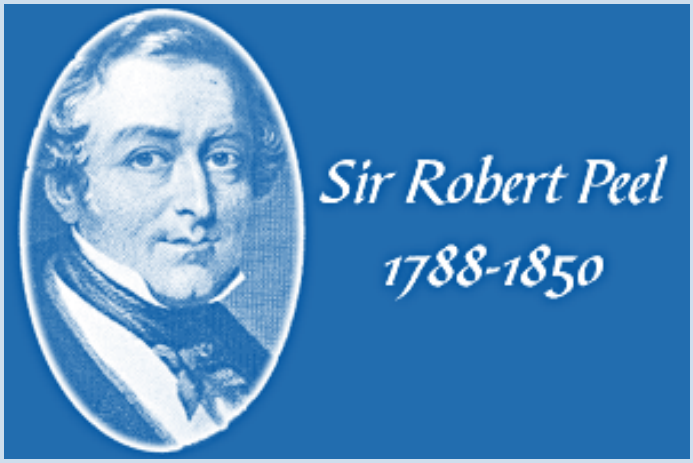
(Continued from Page 2)

The greatest irony about groupthink is that many of the elements that enable it are highly desirable qualities in and of themselves, and are very characteristic of police departments, and special interest groups.

In response to the torrent of criticism brought by the death of Diallo, Police Commissioner Howard Safir brought additional minority officers into the special unit and instituted a civility-training program. These moves will help, but there is a larger issue here. As a result of the CATO Institute study, at least three factors were clearly identified that can corrupt the tactics of law enforcement:

1. Demanding, unrelenting pressure from superiors to obtain "quantity" results.
2. An obsessive preoccupation with a single objective or "special interest."
3. Worst of all, group leaders who are willing to accept—or even encourage—lower standards to achieve their goals.

The psychology for what happened is similar to the cultural debility known as *groupthink*—a pattern of faulty decision making in very cohesive and overly focused groups, leading to carelessness, poor decisions, and low quality actions. Just like activists intent on accomplishing a special interest, police can get so wrapped up in achieving a good cause that they start violating the very principles they are seeking to protect—the path to hell truly is paved with good intentions when we rationalize that the ends justify the means. The advice that Janet Reno gives *to* cops for dealing with extremists should also be taken *by* cops so they don't make the same mistakes: "Stick To The Law!"



Sir Robert Peel's Nine Principles for Modern Policing-1829

1. **The basic mission for which the police exist is to prevent crime and disorder.**
2. **The ability of the police to perform their duties is dependent upon public approval of police actions.**
3. **Police must secure the willing cooperation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public.**
4. **The degree of cooperation of the public that can be secured diminishes proportionately the necessity of the use of physical force.**
5. **Police seek and preserve public favor not by catering to public opinion but by constantly demonstrating absolute impartial service to the law.**
6. **Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient.**
7. **Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being the only members of the public who are charged to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence.**
8. **Police should always direct their action strictly towards their functions and never appear to usurp the powers of the judiciary.**
9. **The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.**

Foot Pursuit DO'S and DON'TS

Chasing suspects on foot can—and does—result in serious injury or death to officers every year. To enhance police safety, the Street Survival Newsline of Calibre Press, Inc., summarized a list of tactical do's and don'ts for officers to consider when conducting foot pursuits. The list was inspired by guidelines presented in "The Best of the Police Marksman."

DO'S

1. **Do radio for assistance:** Direct responding units to help contain the fleeing suspect—even though your first instinct is to start the chase.
2. **Do head the suspect off:** If you can anticipate the area toward which the suspect is heading, you can drive there and wait for the suspect when he emerges.
3. **Do pace and charge:** As the suspect starts running, he will undoubtedly expend maximum energy to get away. While the suspect is running as fast as he can, you should pace yourself, exerting about 60-80 percent effort—just fast enough to keep the suspect in sight and prevent him from getting too far ahead. As the suspect tires and slows down, you can accelerate to 100 percent of your speed and overtake him. If the suspect is tired and begins to slow down or stops and surrenders, you should slow down so that the suspect can be approached in a "balanced and controlled manner."
4. **Do parallel the suspect:** Don't try to follow the suspect's exact route. If you do, the suspect can conceal himself and set up an ambush. Instead, try to parallel the suspect. For example, if he is running down a sidewalk, you should run down the street (traffic conditions permitting), keeping barriers like parked cars and other objects between you and the suspect. If the suspect disappears behind a building, DON'T try to follow him around it; instead, try to anticipate the suspect's route and head around a different corner, or down a different side of the building, to cut him off. If the suspect jumps a fence (where visibility is impaired), you should jump the fence at a different point, as far away from where the suspect went over as possible.
5. **Do move from cover to cover:** Try to move from cover to cover when chasing a suspect, especially if you have lost sight of him. This may increase the overall distance between the two of you, but it will increase the margin of safety.

DON'TS

1. **Don't immediately outrun a suspect:** Running is not the "first and only option." Attempting to grab a running suspect allows him to easily stop and attack you before you're able to slow down and counter the attack.
2. **Don't tackle the suspect unless it is absolutely necessary:** Tackling the suspect, especially on pavement, can quickly end your career to an injury. Wrestling with the suspect on the ground leaves you open for a gun grab.
3. **Don't take tight corners:** If a suspect rounds a corner and there is no other option but to follow him around that corner, you should slow down, get as far back from the corner as possible and peek around to ensure the suspect is not waiting for you.
4. **Don't run into dead-end or cornered areas:** If a suspect disappears down an area which has no cover or escape routes and which restricts your movement to "forward" and "backward," you should stop and wait for backup. Do NOT follow the suspect into this kind of area, which is a classic "kill zone." Fences should be considered as a cornered area.
5. **Don't lose sight of the suspect:** If you lose sight of a suspect during a foot pursuit, the odds of catching him decrease, and the danger to you increases. Once the suspect gains enough distance on you, he'll probably stop and hide. If the suspect is going to set up a hasty ambush, he is likely to do it at this time. To avoid this, you should stop immediately upon losing sight of the suspect, call for backup, establish a perimeter, and call for a K-9 unit.

Good luck and stay safe!

Tracking . . .

(Continued from Page 6)

Aside from their own observations and questions, police can obtain juvenile histories by talking to neighbors, other police, schools, just to name a few. All police investigative reports are private, especially when they involve juveniles. Since the information entered into systems like STATIS is available only to authorized law enforcement agencies, data may be queried by any police investigator who is able to establish a right or need-to-know. Since modern habitual criminals move between jurisdictions at will, law enforcement databases like STATIS are also needed to track adult offenders. For more information on STATIS, contact D/Tpr. Michael Greenwood at 517-336-6633, or D/Lt. Jerry Conners at 517-336-6567, of the Michigan State Police Investigative Resources Section.

The books *The Anatomy of Motive* and *How State and Local Officials Can Combat Violent Juvenile Crime* are available at the Michigan State Police Law Enforcement Resource Center. Any Michigan law enforcement officer or administrator can check them out by getting hold of John Longstreth, at 517-322-5251 or longstrj@state.mi.us.

Tuebor is on the Web!

The Tuebor is now accessible, with Adobe Acrobat Reader, through the Michigan State Police Training Division Intranet site, or via the Internet at **www.msp.state.mi.us/division/academy**

A Call for Civics Training in Law Enforcement

According to the noted historian Jacques Barzun, author of *From Dawn to Decadence*, a large part of what makes a democracy work is "common historical memories." History shows, however, "When the nation's history is poorly taught in schools, ignored by the young, and proudly rejected by qualified elders, awareness of tradition consists only in wanting to destroy it." In other words, the quality of democratic citizenship is correlated to the quality of education.

Unfortunately, a recent study commissioned by the American Council of Trustees and Alumni painfully revealed that 81 percent of college seniors surveyed could not even answer basic American history questions. The reason: 78 percent of the colleges and universities in the United States no longer have history requirements. The study found that college curriculum decisions are now being made on the basis of marketing, and what were considered liberal arts essentials in the past have been discarded to make room for more entertaining electives.

According to R. Freeman Butts, the author of *The Civic Mission in Educational Reform*, the weakening of civics education in public school and colleges started in the 1950's. Absurd as it may sound, the education system started treating "civics" instruction as wrong, as if it was somehow undemocratic to teach about democracy. It was as if some fool proclaimed: "It's against my rights to teach me about my rights!"

"A just social system defines the boundaries," says Butts, which is why our democracy contrasts, as well as binds together, *obligations* and *rights*. "Without some guidelines, the cherished freedoms can lead to the corruptions of anarchy, license, and unbridled individualism. A sense of obligation and responsibility manifested by loyalty, patriotism, discipline, and duty is still needed as a social and political glue if the very structure of the democratic polity is to persist, let alone thrive."

Because so many school systems have weakened civics education, police departments have had little choice but to make up the difference. Through in-school programs, police officers have essentially been filling-in to teach civics to children for years, though informally and without the adequate training, time and resources. Moreover, because civics training has been shortchanged for so long, we can no longer assume that *anyone* has been democratically culturalized, and law enforcement instructors now find it necessary to teach civics in police academies and in-service seminars in hopes of inspiring constitutional respect.

Law enforcement is more than just memorizing codes, statutes, and patrol tactics. The discretion that police are counted on to use when they implement the law is based on those principles of democracy that our public schools traditionally taught. The formulation of comprehensive civics education for police officers lies before us as essential to recapturing a sense of legitimacy and moral authority with the public. Says Butts, "It may be that not only is the future of public education at stake, but the future of the democratic community itself."

To help put civics education back on track, R. Freeman Butts offers a balanced theme or arrangement in "Twelve Tables," which shows the counterpoints between "obligations" and "rights" of citizenship, as well as the "corruptions" that extremism cause. While these twelve values often come into conflict with each other, and finding a balance is often subject to interpretation, they are fundamental to democracy. Regardless how you approach it, according to Butts, "we need a more normative approach to the idea of citizenship." In others words, American history and the history of democracy need to be taught with an eye on the "morality of citizenship."

THE TWELVE TABLES OF CITIZENSHIP

The Morality of Democracy & Goals for Civic Education

The Obligations of Citizenship		The Rights of Citizenship	
Corrupted Obligations of Citizenship	**True Obligations of Citizenship**	**True Rights of Citizenship**	**Corrupted Rights of Citizenship**
Law Enforced Without Discretion	**Justice**	**Freedom**	Anarchy: Uncontrolled Selfishness
Forced Mediocrity & Conformity: Stagnation	**Equality**	**Diversity**	Society Crippled by the Conflict between Parties
Totalitarianism	**Authority**	**Privacy**	Isolationism
Majority Rule without Individual Protections	**Participation**	**Due Process**	Soft on Crime: thinking that Everyone is a Victim & Everything is a Right
Unprecedented Regulation & Taxation; Excess Entitlements & Frivolous Liability	**Honesty**	**Ownership**	Monopolies: Capitalism Superior to Human Rights
Hatred of Outsiders; Racism; Discrimination; Cult-like Political Systems	**Patriotism**	**Human Rights**	Cultural Relativism: inability to judge the morality of different customs & cultures - no concept of good & evil

Democratic Citizenship

When All Else Fails - TRACKING & SWIFT ENFORCEMENT!

"The sharing of information was cited as the number one requirement of law enforcement in a 1998 National Institute of Justice (NIJ) needs assessment. Information housed in one agency's files can be of immense value to another agency. Unfortunately, in many cases, information sharing among jurisdictions can be hampered by technical deficiencies and bureaucratic obstacles. Criminals take advantage of this fact."

—National Law Enforcement and Corrections Technology Center, Winter Bulletin, 2000

While only 2 percent of those juveniles arrested go on to become serious habitual offenders, almost all of that 2 percent come from abusive, broken, or neglectful homes. According to a 1996 report by The Council on Crime in America, a bipartisan commission, crimes committed by males ages 14 to 17 will increase 23 percent by 2005. Louis Freeh, Director of the FBI, stated that continuation of current trends in juvenile crime, with the coming demographic surge in the juvenile population, "portends future crime and violence at nearly unprecedented levels."

Police are doing their best to implement prevention programs, including community policing, school seminars, and police/juvenile mentoring. Hopefully, these will help reduce juvenile crime, but when all else fails, the police must be prepared to protect the public. The report, *How State and Local Officials Can Combat Violent Juvenile Crime*, published by the Heritage Foundation, states that "certain conditions are essential:" police must be prepared to "track" juvenile offenders that are a high risk of becoming serious habitual offenders.

Police encounter children at risk on many types of calls. Unfortunately, even on domestic complaints between spouses, for instance, police often don't bother to document that there are even children living in the home, let alone investigate their history. "Keep your reports short so attorneys can't use them against you," new officers have often been told. But this strategy often hurts the public more than it helps police.

Not all children in high-risk environments go on to become violent habitual criminals. However, police should document the characteristics of such children, even when there is insufficient evidence—at the time—to intervene on their behalf. Eventually other officers and the courts will be able to use the information if the juvenile starts to get in trouble. Enforcement is actually a form of intervention on behalf of those juvenile offenders at the greatest risk of becoming habitual criminals, allowing close supervision, treatment, and perhaps separation from those ravaged family roots that are the origin of their problems.

Tracking, or sharing information, necessitates that all police departments participate in a computer data collecting system—sort of an internet for cops—that allows police departments to find reports from other departments that relate to their investigation. In Michigan, this system is called "STATIS." Individual police officers bear a major portion of the responsibility for ensuring that their reports are entered into the systems with the most thorough information possible.

What Is the Kid Like?

"I deeply sympathize with a man who's been beaten or sexually abused or deprived of love as a child. I understand why he may have deep psychological problems as an adult. But…he does not have to hunt, hurt, or kill others…he does it because it makes him feel good."

—John Douglas, FBI

FBI agent John Douglas, the legendary "mindhunter" famous for predicting the next move of serial criminals, has written a new book called *The Anatomy of Motive*. While the book is an excellent resource for detectives trying to solve violent crimes, it also looks at early behavior patterns among boys that may manifest into adult criminal conduct. Douglas explains that when he first started interviewing career violent criminals, it didn't take long before he realized that certain "patterns of behavior" were common, even while the subject was still a very young child.

For example, extreme cruelty, bullying, obscene language, early sexuality and impulsiveness are all indicators that should be thorougly documented. The Heritage Foundation recommends documenting these additional early warning signs:

- Single-parent home or fatherless family
- The absence of a mothers love
- Parental fighting and domestic violence
- The lack of parental supervision and discipline
- Rejection of the child by parents
- Parental abuse or neglect
- Criminal parents
- Unusual aggressiveness as early as age 5 or 6
- A child's rejection by other children, as early as the first grade
- Failure at school
- Living in a high-crime or violent neighborhood
- Gang membership or criminal peer group

(Continued on Page 4)

Number of Copies Printed: 4,400
Total Cost: $388.00 Cost Per Copy: $0.088